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OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Twelfth periodic report of States parties due in 1998

Addendum

Rwanda*

[24 March 1999]

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* This document contains the eighth, ninth, tenth, eleventh and twelfth periodic reports of Rwanda, submitted in one document, due on 16 May 1990, 1992, 1994, 1996 and 1998. For the seventh periodic report of Rwanda and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/169/Add.1 and CERD/C/SR.839.

This report also contains general information normally submitted in core documents (HRI/CORE/1/Add. ...).

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Introduction

1. Rwanda acceded to the International Convention on the Elimination of All Forms of Racial Discrimination by Decree-Law No. 8/75 of 12 February 1975, which approved and ratified various international conventions concerning human rights, disarmament, and the prevention and suppression of certain acts endangering peace between peoples and nations.

2. Article 9, paragraph 1, of the Convention provides for the submission, every two years, of periodic reports on the legislative, judicial, administrative or other measures taken by States parties to give effect to its provisions. The Rwandese Republic regrets that the eighth, ninth, tenth and eleventh reports were never compiled or submitted on a periodic basis.

3. The principal reasons for this delay are the war in which Rwanda has been engaged since 1 October 1990 and the genocide and massacres of 1994. Following those tragic events, the first concern of the Government of National Unity was to set up political institutions with a view to re-establishing peace and security in the country. The magnitude of the task has also prevented the Rwandan authorities from submitting periodic reports. However, the Rwandan Government has agreed to submit the above-mentioned reports in a single document, and thanks the Committee on the Elimination of All Forms of Racial Discrimination for allowing it to do so.

4. As a departure from established practice and for greater ease of reference, Part I of this periodic report contains the type of general information which States parties normally submit in a core document (HRI/CORE/1/Add...).

PART I. GENERAL

I. LAND AND PEOPLE

5. The total area of the country is 26,338 km^2 and the population currently stands at over 7.7 million. The population was 2 million in 1952, 4.8 million in 1978, and 6.5 million in 1996.

6. Women account for 53 per cent of the total population. Approximately 34 per cent of heads of household are female, an increase of 21 per cent over the 1992 total.

7. According to a poverty assessment carried out by the World Bank, the number of people living in poverty in Rwanda has increased steadily since 1985: 40 per cent in 1985, 53 per cent in 1993, and 70 per cent in 1997. The adult literacy rate is 52.7 per cent (51.6 per cent for males and 44.8 per cent for females).

8. The Rwandan population consists of three ethnic groups: the Bahutu, the Batutsi and the Batwa. They all speak the same language, Kinyarwanda. The distinction between the three tribes is not as clear-cut as in other African countries, because they intermarry and share the same language and culture. Unlike other African tribes, they intermingle and do not reside in separate

areas. Kinyarwanda is the national language; the official languages are Kinyarwanda, French and English. Social development is underpinned by unity and peace for everyone, regardless of origin.

9. The Rwandan Government, after suffering the consequences of the politics of exclusion pursued by previous regimes in respect of one of the three groups, is now making every effort to ensure real equality for the various ethnic groups both in law and in fact. Accordingly, it extends the same opportunities to each of them.

10. Administratively, Rwanda is subdivided into 12 prefectures. The prefectures have a legal personality, although they currently own no assets. They are subdivided into communes, which have both legal personality and their own assets. Communes are grouped into sub-prefectures and subdivided into wards. Wards are themselves divided into cells, the lowest administrative division.

II. GENERAL POLITICAL STRUCTURE

11. Rwanda has just emerged from war and from the genocide and massacres of 1994. This has clearly had an impact on the country's present political structure. The Basic Law comprises the Constitution of 10 June 1991, the Arusha Peace Agreement of 4 August 1993 between the Rwandan Government and the Rwandese Patriotic Front (RPF), the RPF Declaration of 17 July 1994 on the establishment of institutions, and the Protocol of Agreement between the various political forces regarding the establishment of national institutions dated 24 November 1994.

12. The Basic Law makes provision for the following national institutions: the Presidency of the Republic, the Broad-Based Transitional Government, the Transitional National Assembly and the Judiciary. These institutions make up the three branches of government, namely the executive, legislature and judiciary.

A. The executive

13. The authority of the executive is exercised collectively through decisions taken in the Council of Ministers by the President of the Republic and the Government. The Presidency of the Republic is entrusted to a President, assisted by a Vice-President. The Government comprises a Prime Minister, ministers and secretaries of State. The Government administers the country and directs national policy.

B. The legislature

14. Legislative authority is exercised by the Transitional National Assembly. The Assembly's Bureau comprises a President, a Vice-President and a Deputy/Secretary. It exercises its authority through legislation.

C. The judiciary: its independent status

15. Judicial authority is exercised by the courts and other judicial bodies. The judiciary is independent of the other branches of government. The Supreme

Court is the highest-ranking court. It comprises five divisions: the Court of Cassation Division, the Council of State Division, the Constitutional Court Division, the Court of Audit Division, and the Courts and Tribunals Division.

16. The system of ordinary courts comprises district courts, courts of first instance, courts of appeal and the Supreme Court. The judicial bodies in the armed forces are the Court Martial and the Military Court.

17. Not only is the independence of the judiciary guaranteed under the Basic Law, but article 25 of the Arusha Protocol of Agreement on Power-Sharing further stipulates that judicial independence shall be reflected in the actual organization of the courts. Accordingly, as part of the mechanism for ensuring the independence of the judiciary, one of the Supreme Court's functions is to direct and coordinate the work of the Rwandan courts. The President of the Supreme Court holds the power to appoint judicial officers. In this function of safeguarding the independence of the judiciary and judicial officers, the Supreme Court is assisted by a Supreme Council of the Magistracy (Conseil supérieur de la magistrature) made up exclusively of judicial officers. The Council has the following powers:

(a) It decides on the appointment, dismissal and all matters affecting the careers of judges with the exception of the President and Vice-Presidents of the Supreme Court;

(b) It offers consultative opinions, at its own initiative or upon request, on any matter which it is competent to examine concerning the regulations governing the terms and conditions of service of the judiciary;

(c) It offers consultative opinions, at its own initiative or upon request, on any matter concerning the administration of justice.

III. THE GENOCIDE OF 1994 AND ITS CONSEQUENCES

18. The separatist policy followed in Rwanda before and after independence led to the genocide and massacres of 1994. The impact of those tragic events is still apparent in the current security situation, the prison population and the plight of the survivors of the genocide and the massacres.

A. The security situation

19. The RPF succeeded in ending the war, genocide and massacres on 4 July 1994, the date on which the Rwandan Patriotic Army drove forces loyal to the government of the day from the capital, Kigali, immediately installing a Government of National Unity on 19 July 1994. Since then, the defeated army and members of the interahamwe militia, backed by certain countries which are supplying them with arms, have refused to lay down their weapons. After the mass return of refugees in 1994, the ex-Rwandese Armed Forces (FAR) and the interahamwe militia began in 1996 to endanger the security of the population by launching attacks on prefectures, especially in north-west Rwanda. The situation was exacerbated by the fact that one section of the population supported the infiltrators, providing them with shelter and guidance, and following them when they escaped from Rwanda.

20. The situation is now calm again thanks to the Government of National Unity's efforts to raise public awareness, as a result of which the population has completely dissociated itself from the infiltrators. Returnees are concentrating in villages, thereby enabling the Rwandan Patriotic Army to guarantee their safety more effectively. This is in line with the Government's present policy of promoting grouped settlements (imidugudu), in order to facilitate access to basic services such as education, health care, water and electricity. However, resettlement on this scale is fairly expensive and requires the involvement of the international community. United Nations agencies, the International Committee of the Red Cross (ICRC) and a number of non-governmental organizations (NGOs) are already taking part in this programme.

B. Assistance for genocide survivors

21. Justice was the first form of assistance which the Government of National Unity felt it should offer the survivors of the 1994 genocide and massacres. The re-establishment of the judicial system, which had not been spared by the events of that year, was thus a priority for the Government. Before that date, there had been 785 judges in Rwanda; by November 1994 there were just 244. A mere 12 prosecutors were left out of the 70-strong contingent that existed prior to April 1994. Only 22 of the former 197 criminal investigation officers had survived. Under those conditions, justice for the survivors was not feasible in practice.

22. The challenge, therefore, was urgently to rebuild the judiciary through a training programme for judges, prosecutors, criminal investigation officers and other ancillary officials, thereby enabling the survivors to seek redress and preventing them from seeking revenge. There are currently more than 800 judges, 157 public prosecutors, 327 registrars and 500 criminal investigation officers, and the training programme is continuing. Special chambers have been created in courts of first instance to try the perpetrators of genocide and massacres.

23. Assistance is provided to survivors via a fund set up under an Act of 22 January 1998, which is designed to help the most needy survivors in key areas such as education, health care and housing. Finally, the Government of National Unity is making every effort to protect survivors and ensure that the perpetrators of genocide who have refused to disarm do not repeat their heinous crime, by resisting separatist ideas and combating those who continue to hold and disseminate such views.

C. Prison conditions

24. The genocide and massacres of 1994 resulted in the deaths of over half a million Rwandans and the destruction of property. The scale of the damage was in proportion to the large number of people involved, and detention procedures and conditions were affected accordingly. This explains why a number of genocide suspects have been detained in violation of the normal procedures. In order to resolve this problem, a mobile group composed mainly of criminal investigation officers has been formed to check irregular case-files of genocide suspects locally. Certain individuals who have been detained without

a case-file have been released. This procedure affects some 10,000 people. The process of sorting out all detainees' case-files should be complete by 31 December 1999 at the latest.

25. Conditions of detention are steadily improving. The Government is building new detention centres, thus alleviating overcrowding at older facilities. Central prisons originally had the capacity to house 30,000 inmates. The prison expansion programme and the construction of new prisons have created 11,550 new places, thereby increasing the overall prison capacity to 41,550 places. Yet even so conditions of detention are still far from satisfactory, because capacity has failed to keep pace with the mushrooming prison population. The total number of detainees is currently estimated at slightly over 130,000. In the communal cells (cachots) alone, the number of detainees dropped from around 50,000 to 36,000 by the end of 1998. This decrease is mainly due to the transfer of detainees from communal detention centres to the central prisons. Some 4,500 detainees are minors, 243 of whom are under 14 years of age. Minors are housed in special detention centres. Approximately 95 per cent of the prison population stands accused of genocide.

IV. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Protection under the law, by the authorities and by the courts

26. Human rights are guaranteed by the Basic Law, the international conventions to which Rwanda is a party and individual Acts. It is the duty of the courts to protect these rights, since violation of a right gives rise to legal proceedings to secure compensation for any damage that has been caused. The administrative authorities have a special responsibility to ensure that rights are respected. If a decision taken by these authorities violates any right, the party concerned is entitled to apply to the Council of State to have the decision overturned.

B. The National Human Rights Commission

27. Human rights will be specially protected by the National Human Rights Commission, which has just been established. The Commission was originally set up under Presidential Order No. 26/01 of 11 November 1997. However, in order to strengthen its independence and effectiveness, it was decided to establish it under an Act. The Act was duly passed in January 1999 and the members of the Commission have just been appointed. Broadly speaking, the Commission's mandate is to examine human rights violations committed by any person in Rwandan territory, with special emphasis on violations by government bodies and agents or any national organization operating in Rwanda. Specifically, the function of the Commission is to raise awareness of human rights among the Rwandan population and organize relevant training programmes, and also to initiate legal proceedings against anyone who commits human rights violations. It transmits its reports on all findings of human rights violations to the President of the Republic, the Government, the National Assembly and the Supreme Court.

V. INFORMATION AND PUBLICITY

28. The Government has launched information campaigns on human rights themes. Human rights are being incorporated into the school curriculum. The population is also kept informed of its rights via radio broadcasts on the judicial system in general and human rights in particular. One of the functions of the recently established Human Rights Commission will be to raise awareness of human rights among the Rwandan population and organize relevant training programmes.

PART II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

I. PRELIMINARY REMARKS

29. A brief description is given below of the policy for eliminating racial discrimination in all its forms and an overview of the general legal framework in which racial discrimination is prohibited. The Rwandese Republic is deeply committed to respect for the fundamental human rights established as standards by the international community and it firmly supports all peoples combating discrimination-related ideas. In this context, the Government of National Unity strongly condemns any kind of activity involving racism or racial discrimination, given that these are prejudicial to the exercise of human rights and fundamental freedoms and endanger international peace and security.

30. In the international context, the Government of National Unity recognizes and respects the values and principles embodied in international human rights instruments and all international conventions prohibiting racial discrimination which Rwanda has signed and ratified, in particular:

- The Universal Declaration of Human Rights;
- The International Covenants on Human Rights;
- The Convention on the Prevention and Punishment of the Crime of Genocide;
- The International Convention on the Suppression and Punishment of the Crime of Apartheid;
- The International Convention on the Elimination of All Forms of Racial Discrimination;
- The African Charter on Human and People's Rights.

31. Internally, the principle of non-discrimination is embodied in the Basic Law of the Rwandese Republic, and specifically in the Constitution of 10 June 1991 and the Arusha Peace Agreement between the Rwandan Government and the Rwandese Patriotic Front (RPF). The Basic Law establishes that all citizens are equal before the law and guarantees various fundamental freedoms. This is stipulated in articles 16 and 100 of the Constitution, and also in the Peace Agreement and the Protocols thereto, specifically in the Protocol on the Rule of Law (arts. 1-4, 6, 8 and 14) and the Protocol on Miscellaneous Issues

and Final Provisions, especially article 16 (Deletion of reference to ethnic group in official documents) and article 17 (Primacy of the Universal Declaration of Human Rights).

32. In addition to the Basic Law, a number of other legal instruments and regulations incorporate the principle of non-discrimination. These include:

(a) The Criminal Code, under which it is an offence to disseminate aversion or hatred in respect of a group of persons of a given race or religion (art. 393);

(b) The regulations on the terms and conditions of service of the judiciary, article 28 of which imposes on judges the duty to serve the cause of justice without any discrimination whatsoever;

(c) The Labour Code, article 25 of which prohibits all forms of discrimination in respect of employment.

The Government of National Unity has also adopted measures to eliminate racial discrimination in the spheres of education, culture and information.

II. MEASURES GIVING EFFECT TO ARTICLE 2

A. Legislative, judicial, administrative and other measures

1. Observance of the undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation

33. In order to give effect to the commitment in article 2, paragraph 1 (a), of the Convention, the Constitution stipulates that all citizens are equal before the law, without any distinction whatsoever, expressly prohibits racial discrimination and removes the distinction between foreigners and Rwandan nationals in respect of the civil rights which it enshrines.

34. Furthermore, article 28 of Decree-Law No. 06/82 of 7 January 1982 regulating the terms and conditions of service of the judiciary stipulates that "judges shall have a duty to serve the cause of justice with fidelity, integrity, objectivity and impartiality without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion, or social status".

35. These anti-discriminatory provisions, which are enshrined at the highest level in the Basic Law, urge all public authorities and institutions, at both national and local level, to ensure effective compliance. Any discriminatory act, measure or decision on the part of the administrative authorities is liable to be set aside by the supreme administrative court, the Council of State, which under article 89 of the Constitution is competent to take cognizance of applications to set aside regulations, orders and decisions of

the authorities when these violate the Constitution and the law. The Criminal Code and the Labour Code penalize discriminatory acts by private individuals (see below).

2. Observance of the undertaking not to sponsor, defend or support racial discrimination by any persons or organizations

36. The measures listed above, which enshrine non-discrimination in both theory and practice by making racial discrimination the subject of judicial penalties (either in the administrative or in the ordinary courts), automatically give effect to the undertaking not to sponsor, defend or support racial discrimination by any persons or organizations. Any action of this kind is discouraged under penalty of law, specifically by the Criminal Code and the Labour Code.

3. Review of official policy and legislation

37. The following examples may be cited of measures taken to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists:

(a) Amendment and review of the Constitution of 20 December 1978 by the adoption of the Constitution of the Rwandese Republic of 10 June 1991, which guarantees public and fundamental rights and freedoms;

(b) The Arusha Peace Agreement between the Government of the Republic of Rwanda and the RPF, which reaffirms full commitment to the principles of the rule of law, such as democracy, national unity, pluralism and respect for the fundamental rights and freedoms of the individual;

(c) The establishment of a National Human Rights Commission by Presidential Order 26/01 of 11 November 1997, subsequently consolidated by an Act of the Transitional National Assembly passed in January 1999. The Commission's mandate is to examine human rights violations committed by any person in Rwandan territory, with special emphasis on violations by government bodies and agents or any organization operating in Rwanda;

(d) The establishment of a National Unity and Reconciliation Commission.

38. Plans have also been made to pass a bill on the rules governing matrimonial property, succession and gifts, which has already been drafted and is currently being considered by the Transitional National Assembly. A land bill has also been drafted and is awaiting adoption.

4. Prohibition of racial discrimination

39. Racial discrimination is prohibited not only by the Constitution but also under other statutory provisions, particularly the Criminal Code and the Labour Code. Article 393 of the Criminal Code basically makes it an offence to commit any act of discrimination. It is worded as follows:

"(a) Any person who, by defamation or public insult, manifests aversion or hatred towards a group of persons or a given race or religion, or commits an act likely to provoke such aversion or hatred, shall be liable to imprisonment for a term of one month to one year and to a fine not exceeding 5,000 francs, or to one of these penalties;

(b) The following shall also be liable to both or either of these same penalties:

1. Any public official or citizen having responsibility for a public service who knowingly denies the enjoyment of a right to a person entitled to it, on the grounds of his origin or the fact that he belongs or does not belong to a given ethnic group, region, nation, race or religion;

2. Any person supplying or offering to supply goods or services who, without good reason, refuses to do so, whether directly or through an agent, on account of the origin of the person requesting such goods or services, or because that person belongs, or does not belong, to a given ethnic group, region, nation, race or religion; or any person basing an offer on considerations related to a given origin, ethnic group, region, nation, race or religion;

3. Any person who, in the circumstances referred to in paragraph 2 above, refuses to provide goods or services to an association or a society, or to a member thereof, on account of the origin of all or some of the members, or because they belong, or do not belong, to a given ethnic group, region, nation, race or religion;

4. Any person employing one or more employees for his own or another's account, in connection with his occupation or duties, who, without good reason, refuses to engage or dismisses a person on account of his origin or because he belongs or does not belong to a given ethnic group, region, nation, race or religion, or who makes an offer conditional upon or bases it on origin or membership or non-membership of a given ethnic group, region, nation, race or religion."

40. Discrimination in employment is likewise prohibited under the Labour Code, article 25 of which provides that: "Any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national descent or social origin which has the effect of destroying or impairing equality of opportunity in employment shall be prohibited".

41. Article 28 of the regulations on the terms and conditions of service of the judiciary, as cited in paragraph 34 above, may also be referred to in this connection.

42. The policy of balance was used in Rwanda to deprive one section of the population of its rights.* It has therefore been abolished in favour of equality of all citizens before the law and equality of opportunity in all fields, including the economy. For the same reason, it has been decided to remove all references to ethnic origin in official documents.

B. Special measures

43. Measures have been taken to assist vulnerable groups regardless of their ethnic origin. To this end a ministry has been established to handle social affairs. In addition, a fund to assist the most needy survivors of the genocide and massacres has been set up under the Act of 22 January 1998. This assistance is targeted at education, health care and housing.

III. MEASURES GIVING EFFECT TO ARTICLE 3

44. Rwanda has always condemned racial segregation, especially apartheid. It has enshrined universal equality before the law without any discrimination whatsoever, particularly racial (article 16 of the Constitution of 10 June 1991). But in spite of these statutory provisions, Rwanda experienced the genocide and massacres of 1994. In order to root out the crime of genocide once and for all, Organization Act No. 8/96 of 30 August 1996 on the prosecution of offences constituting the crime of genocide or crimes against humanity committed after 1 October 1990 provides the means to prevent and punish these crimes effectively.

IV. MEASURES GIVING EFFECT TO ARTICLE 4

45. Article 393 of the Rwandan Criminal Code lays down the penalties to which any person committing acts of discrimination is liable (see para. 39 above). The Organization Act referred to in paragraph 44 above also deals with the prevention and punishment of the crime of genocide.

V. MEASURES GIVING EFFECT TO ARTICLE 5

A. Equal treatment before the courts

46. The basic text is naturally article 16 of the Constitution, which establishes that all citizens are equal before the law, without any discrimination whatsoever. The Constitution also stipulates that the right of defence is an absolute right at every stage or state of legal proceedings (art. 14). This right is exercised without any form of discrimination, since all citizens are equal before the law. Equal treatment before the courts is also enshrined in article 92 of the Constitution, which states that "no one shall be removed against his will from the jurisdiction of the judge lawfully

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* Note by the Secretariat: "... the policy of balance [... consists] of the equitable allocation of jobs in the public and private sectors and in education in proportion to the representation of each ethnic group in the population as a whole". (Sixth periodic report of Rwanda, CERD/C/146/Add.1, 24 October 1986).

assigned to him". Moreover, every person shall be presumed innocent of criminal offences with which he is charged until final sentence has been passed. Judges must serve the cause of justice with fidelity, integrity, objectivity and impartiality, and without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, or religion.

B. Right to security

47. The law protects the security of the person against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution, by preventing and punishing such offences. Offences are punishable under the section of the Criminal Code dealing with offences against the person (arts. 310-395). Arbitrary detention is also considered an offence, punishable under article 297 of the Criminal Code.

C. Political rights

48. The Constitution includes the right to vote and the right to stand for election among universal fundamental freedoms. Within the limits that the law allows, all citizens may exercise their right to vote through universal, equal and secret suffrage, exercised either directly or indirectly (arts. 8 and 9 of the Constitution). They exercise their sovereignty through referendums. Conditions of eligibility are specified by individual Acts and vary according to the type of election. All citizens have right of entry to public service. The sole criterion for entry to public service is ability, which is assessed by means of competitive examinations.

D. Civil rights

49. The civil rights provided for in article 5 of the Convention on the Elimination of All Forms of Racial Discrimination are recognized under the Basic Law and individual Acts.

1. Right to freedom of movement

50. This includes the right to reside freely in the national territory and the right to leave it and return. This right may be lawfully restricted on grounds of public order or State security. Immigration and emigration are thus subject to certain conditions, as is change of residence.

2. Right to nationality

51. The Basic Law and legislation on Rwandan citizenship recognize the right to nationality. Rwandan nationality and requirements for naturalization are defined by law (article 5 of the Constitution). The law in question is the Act containing the Rwandan Nationality Code of 28 September 1963, as since amended, which lays down the circumstances in which Rwandan citizenship may be acquired, lost or forfeited. The Nationality Code specifies that Rwandan citizenship may be lost only on condition that a person is able to acquire another nationality (arts. 19 and 20), in order to avoid the problem of statelessness. For the same reason, any newborn child of unknown parentage found in Rwandan territory is considered to be Rwandan.

3. Right to marriage and choice of spouse

52. The right to marry and choose one's spouse is protected, but on certain conditions. The Basic Law recognizes only monogamous marriages, solemnized in the presence of a registrar (article 25 of the Constitution of 10 June 1991 and articles 169 and 170 of the Act of 27 October 1988 containing the Preliminary Part and Book I of the Civil Code). The consent of the spouses is also a condition for the validity of a marriage (article 109 of Book I of the Civil Code).

4. Right to own property

53. The right of every person, either individually or severally, to own property is protected under the Basic Law (article 23 of the Constitution of 10 June 1991). It may be interfered with only in the public interest, in the cases and manner prescribed by law and subject to fair compensation in advance. The expropriation procedure is set out in Decree-Law No. 21/79 of 23 July 1979 on expropriation in the public interest. The Criminal Code also makes it an offence to interfere with property (articles 396 ff.).

5. Right to inherit

54. The right to inherit is a corollary of the right to own property. It should be noted, however, that so far inheritance has operated on the basis of custom, which excludes children and women from the line of succession. But given that the principle of equality is enshrined in the Constitution and custom can only operate in accordance with the law, the courts are increasingly recognizing the right of daughters to inherit. To resolve the matter once and for all, a bill is currently being debated in the Transitional National Assembly which, once adopted, will regulate all matters relating to inheritance. The bill naturally enshrines sexual equality in respect of inheritance.

6. Freedom of thought, conscience and religion

55. Article 18 of the Constitution, which guarantees freedom of thought, conscience and religion, stipulates that: "Freedom of religion and the right to profess one's religion in public, freedom of conscience and freedom to express one's opinions on all matters are guaranteed, subject to punishment for any offence committed in the exercise thereof".

7. Freedom of expression

56. Freedom of opinion and expression is likewise guaranteed under article 18 of the Constitution.

8. Freedom of assembly and association

57. The right to freedom of peaceful assembly and association is enshrined in articles 19 and 20 of the Constitution. Article 19 states that "freedom of association is guaranteed under the terms defined by the law; prior authorization shall not be required". And article 20 adds that "freedom to assemble peacefully and without arms is guaranteed within the limits that the

law allows". It further states that "prior authorization may be required only by law and solely for outdoor meetings, on public highways or in public places, and inasmuch as it is necessary for reasons of security, peace or health".

E. Economic, social and cultural rights

58. Economic, social and cultural rights are recognized under the Constitution. In addition, Rwanda became a party to the International Covenant on Economic, Social and Cultural Rights by Decree-Law No. 08/75 of 12 February 1975.

1. Right to work

59. Article 30 of the Constitution recognizes social rights, stating that: "Everyone has the right to work, to free choice of work and to just and favourable working conditions". Furthermore, article 82 of the Labour Code provides that "for the same conditions of work, professional qualifications and performance, remuneration shall be equal for all workers covered by the Code". The Labour Code protects workers against unemployment in the sense that terms of dismissal are very strict. The onus is on the employer to give legitimate reasons for dismissal, and a special procedure must be followed in the case of collective dismissal.

2. Right to form and join trade unions

60. The right to form trade unions is recognized under article 31 of the Constitution, which states that: "Every worker may defend his rights through trade union action, subject to punishment for any offences committed in the course of such action".

3. Right to housing

61. The Rwandan Government is making efforts to improve housing in the country. Generally speaking, the standard of a family's housing is commensurate with its financial means. Special measures have been taken on behalf of the minority Twa people, who until recently lived in cramped and rudimentary huts. As part of general aid for the poor, the Government is providing them with subsidies to improve their living environment, notably through supplies of corrugated iron sheeting. An assistance fund for the neediest genocide survivors was set up by an Act of 22 January 1998. This fund is designed to help the neediest survivors of the genocide and massacres in key areas such as education, health care and housing.

4. Right to public health and social security

62. In the field of health and medical care, the Rwandan Government, notwithstanding its limited resources, is making considerable efforts to achieve the objective of health for all by the year 2000. Accordingly, it is endeavouring to make health care available to the entire population, by ensuring that medical consultations and medicines in State hospitals are affordable. Furthermore, the Government is committing more resources to the construction of health centres throughout the country, which will combine

remedial and preventive care in addition to health education, as part of a programme to decentralize health care. Social security against occupational risks, sickness and old age, is currently available to salaried workers in the public and private sectors. A plan is afoot to extend social security to sickness insurance which could ultimately cover the entire population. A mutual scheme has just been established to reimburse the medical expenses of State employees.

5. Right to education and culture

63. All Rwandans participate in education, training and cultural activities on an equal footing.

F. Right of access to any place or service intended for public use

64. Right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes and places of entertainment, is subsumed in the right to freedom of movement enshrined in article 21 of the Constitution and the principle of equality enshrined in article 16 thereof. The principle of non-discrimination in the use of public services is enshrined in the instruments establishing those services.

VI. MEASURES GIVING EFFECT TO ARTICLE 6

A. Remedies

65. With regard to effective remedies in the courts and other competent State bodies, article 14, paragraph 3, of the Constitution of 10 June 1991 enshrines the absolute right to a defence at every stage or state of legal proceedings. For the purpose of implementing this provision, the regulations on judicial procedures make two types of remedy available to the accused, namely administrative and judicial remedies.

1. Administrative remedies

66. These comprise application to the same administrative authority to reconsider its decision (recours gracieux), appeal to a higher administrative authority (recours hiérarchique), and application to the Council of State to set aside an administrative decision. The first option consists of an application to the same administrative authority to reconsider or amend the original decision. When the matter cannot be settled at that level, it must be referred to an administrative authority higher up the scale, and as a last resort to the Council of State.

2. Judicial remedies

67. These comprise ordinary and special remedies.

68. Ordinary remedies include applications to set aside a judgement and appeals. Under an application to set aside a judgement (opposition), a person who has been sentenced by default is entitled to apply to have the judgement or decision against him set aside. If the application is upheld, the judgement by default is deemed null and void and the court must retry the

case. In the case of an appeal, a plaintiff who is not satisfied with a judgement at first instance may lodge an appeal in a higher court with a view to reversing the said judgement. The judgement may not be enforced until the period for appeal has expired, unless an order annulling the suspensive effect of an appeal has been granted either by the judgement itself or by the appellate court prior to its determination of the merits of the case.

69. Special remedies include appeals for review on points of law (pourvoi en cassation) and applications to reopen proceedings on grounds of error or fact (recours en révision). The latter remedy is available only in criminal law (the equivalent remedy in private law is retrial pursuant to the reopening of civil proceedings, see para. 71 below). Appeals for review on points of law may be lodged against decisions and judgements handed down at last instance or in the appropriate jurisdiction which are liable to reversal on account of errors of law. In the case of applications for reconsideration of the facts (recours en révision), Rwandan law stipulates that the accused or his beneficiaries may request a retrial, irrespective of the court which handed down sentence and irrespective of the sentence itself, in the following cases:

(i) When, following a conviction for homicide, evidence is produced to provide sufficient indications that the alleged victim of the homicide is still alive;

(ii) When, following a conviction for a lesser indictable offence, another accused person or defendant is sentenced pursuant to a new decision or judgement and the two convictions cannot be reconciled, the contradiction between them shall suffice to prove the innocence of one or other of the convicted persons;

(iii) When, after sentence has been passed, one of the witnesses is prosecuted and found to have perjured the accused or defendant. The witness so convicted cannot be called to give evidence in the new hearings;

(iv) When, following a conviction, an event takes place or a fact is revealed, or when evidence which was not brought to light at the trial is produced which establishes the innocence of the person convicted (article 100 of the Supreme Court Organization Act).

70. When the review decision or judgement establishes the innocence of the convicted person the latter may apply for damages for the harm sustained by the conviction. If the victim of the wrongful conviction has died, the right to apply for damages shall devolve, under the same conditions, on the spouse, heirs, or ascendants and descendants to the second degree. This right shall not devolve on more distant relatives unless they can prove that they have sustained material damage as a result of the conviction. The application shall be admissible at all stages of the review procedure. A review decision or judgement stating that a convicted person is innocent shall be posted in the place where the sentence was handed down, the place where the review court has its seat, the administrative centre of the commune where the offence was allegedly committed and that of the commune where the victim of the wrongful conviction is resident. It shall be published in the official gazette and two newspapers of the applicant's choice, should the latter so request.

71. It should be noted that application to reopen proceedings on grounds of error of fact is available only in criminal law, the equivalent remedy in private law being retrial pursuant to the reopening of civil proceedings (requête civile). Judgements and decisions which are no longer subject to an application to set aside or an appeal may be revoked at the request of the parties and duly appealed, on the following grounds:

(i) If there was personal fraud;

(ii) If errors of form rendered the judgement void, either before the judgement or at the time the judgement was handed down, provided the parties did not remedy the invalidation;

(iii) If judgement was handed down on the basis of evidence subsequently recognized or declared to be false;

(iv) If there are conflicting judgements at last instance in respect of similar parties, similar grounds for appeal, and similar courts;

(v) If, since the judgement, decisive evidence has been uncovered which sufficiently demonstrates the error of the original judgement or decision;

(vi) If judgement was handed down on matters which were not submitted to the court;

(vii) If more was awarded than was applied for;

(viii) If a decision on one of the points in the application has been omitted;

(ix) If a single judgement contains conflicting provisions;

(x) If, in cases where the law states that a communication must be sent to the Procurator's Office, the communication was not in fact submitted and judgement was handed down against the person in whose favour the communication was ordered.

72. The legal protection of individuals against acts of racial discrimination is adequately covered by the general protection afforded to persons against all other unlawful acts and abuse of authority. A private individual who has suffered harm as a result of such an act may initiate an action for damages in the ordinary courts (article 258, of the Book III Civil Code). In cases where the act has been committed by the authorities, article 89 of the Constitution of 10 June 1991 provides that the Council of State, as the highest administrative court, is competent to take cognizance of "applications to set aside regulations, orders and decisions of the administrative authorities".

B. Special courts

73. Today in Rwanda, following the genocide of 1994, special chambers have been created in every court of first instance to try the perpetrators of

genocide and their accomplices. An International Tribunal for Rwanda has also been established. By the end of 1998, over 424 sentences had been handed down by the Rwandan courts against perpetrators of genocide and their accomplices. Two sentences have also been handed down by the International Tribunal.

VII. MEASURES GIVING EFFECT TO ARTICLE 7

A. Education and teaching

74. Education and teaching are regulated by Organization Act No. 1/1985 of 25 January 1985 on national education in the Rwandese Republic. This Act provides for public establishments set up by the Government and private establishments set up and administered by any natural or legal person under private law.

75. Public establishments naturally admit candidates without any discrimination whatsoever according to the principle of equality. To ensure that the selection of candidates by private establishments is not based on discriminatory preferences, article 26 of the aforementioned Organization Act specifically stipulates that such establishments must admit pupils without any discrimination whatsoever, particularly with regard to race, origin, clan, ethnic group, sex, colour, opinion, religion or social status.

76. As far as the actual organization of the educational system is concerned, the Act lays down general objectives and specific goals for every category of teaching. Article 2 states that "the purpose of national education is to contribute to the development of the moral sense and physical and intellectual capacities of the person being educated, and to ensure preparation for the role of an adult citizen". A distinction is drawn between formal and informal education.

1. Formal education

77. Formal education comprises special education, pre-school education, primary education, secondary education and higher education.

78. Special education is intended for disabled and mentally handicapped children who are unable to attend normal classes. Some sight-impaired children are currently being integrated into the normal school system after special training. This experiment is being tried only in a few secondary schools.

79. Pre-school education is offered in nursery schools. Civic, moral, intellectual and physical education is provided in primary schools, which aim to impart basic knowledge. Primary education is free of charge for children from the age of seven and lasts six years.

80. Secondary schools aim to dispense vocational-type education and to prepare pupils for higher education. This stage normally lasts six years following the completion of primary education. Higher education aims to train executives in line with national requirements and to promote scientific research. It is offered at universities and institutes of higher education, both public and private.

2. Informal education

81. Informal education includes continuing education and popular education. Continuing education is designed for persons in employment who wish to keep pace with technological change and the requirements of their work at every stage of economic, social and cultural development. In this connection, Presidential Order No. 145/06 of 24 February 1986 established a National Centre for Vocational Training and Proficiency, one of whose functions is to coordinate training and proficiency schemes that tailor employment and training to the needs of the market place.

82. Popular education is aimed at adults and young people who have never been to school or who have dropped out of school. The objective is to enable them to participate in the process of economic, social and cultural development. Popular education is generally provided by commune-based development and continuing education centres. The Government has set up youth training centres to provide young people outside the school system with basic education and even vocational training.

B. Culture

83. Everyone may exercise the right to participate in cultural life through the freedoms guaranteed under the Basic Law. It is always possible to set up cultural associations and groups since freedom of association is guaranteed. The Government plays an active role in the cultural sphere by fostering and encouraging a whole variety of cultural events initiated by individuals. This function is performed by the Ministry responsible for promoting cultural affairs.

C. Information

84. The Government has launched information campaigns on human rights themes. Human rights are being incorporated into the school curriculum. The public is also kept informed of its rights via radio broadcasts on the judicial system in general and human rights in particular. One of the functions of the recently established Human Rights Commission is to provide human rights training to the Rwandan population.

Conclusion

85. In accordance with the commitments it has entered into under the Convention, Rwanda is continuing to make tireless efforts to implement its provisions. Because the country has experienced genocide against one of the ethnic groups which make up its population, the principal challenge facing the Broad-Based Transitional Government is to reconcile the country's three ethnic groups and to promote harmony between them. Accordingly, the Government is endeavouring to end the culture of impunity which gave rise to the genocide. The recently established National Unity and Reconciliation Commission will help it to meet these objectives.